

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARK MICHALEK and)
JENNIFER MICHALEK, h/w,)
Plaintiffs,)
vs.)
SHAWN STEELE, an individual,)
d/b/a “Eleets Construction”)
Defendant.

2:20-CV-00205-JFC

OPINION

The court has a nondelegable duty to ensure that it may properly exercise subject-matter jurisdiction. The burden to demonstrate removal jurisdiction rests with the removing party. On February 19, 2020, the court ordered the removing party, defendant Shawn Steele (“Steele”), to show cause why this case should not be remanded to the state court because it appeared on the face of the state court complaint that subject-matter jurisdiction in this court is lacking. Plaintiffs and defendant are all citizens of Pennsylvania and none of the causes of action raises a federal question.

Steele filed a response to the show cause order. In it, he “freely admits” that “neither the parties nor facts nor amount in controversy merits this matter’s removal” to federal court. (ECF No. 4 at 2). Steele reiterated his request that this case nevertheless be consolidated with a related matter that is already pending in this court.

As this court explained in its show cause order:

The court recognizes that the matters in this case are related to those at issue in Civil Action No. 19-351, and the parties desire that the cases be consolidated for judicial economy. Nevertheless, the removal statute “requires the existence of original jurisdiction before an action may be taken from a state court.” *Gleeson v. Dyller*, No. 3:CV-07-0247, 2008 WL 11498150, at *2 (M.D. Pa. Mar. 25, 2008) (citations omitted). “Considerations of judicial economy do not justify removal of a state court action over which original jurisdiction is lacking.” *Id.* at *3.

(ECF No. 2).

Because, as Steele concedes, original jurisdiction is lacking over Civil Action No. 20-205, this case cannot be removed to federal court. It shall, therefore, be REMANDED FORTHWITH to the Court of Common Pleas of Allegheny County, Pennsylvania. The motion to consolidate cases (ECF No. 3) is DENIED AS MOOT.

An appropriate order follows.

Dated: March 10, 2020

/s/ Joy Flowers Conti
Joy Flowers Conti
Senior United States District Judge

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ORDER

And now this 10th day of March, 2020, in accordance with the foregoing opinion, it is hereby ORDERED that Civil Action No. 20-205 is REMANDED FORTHWITH to the Court of Common Pleas of Allegheny County, Pennsylvania. The motion to consolidate cases (ECF No. 3) is DENIED AS MOOT.

/s/ Joy Flowers Conti
Joy Flowers Conti
Senior United States District Judge